

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION**

WARREN LOKEY, )  
v. Plaintiff, ) Case No. CV410-298  
DARBY BANK & TRUST CO.; )  
DRAYPROP, LLC; DRAYPARK, LLC; )  
MICHAEL BROWN; REUBEN CROLL; )  
MOPPER-STAPEN, INC.; MARLEY )  
MANAGEMENT, INC.; and FEDERAL )  
DEPOSIT INSURANCE )  
CORPORATION, as receiver of the )  
*Business and property of Darby Bank &* )  
*Trust Co.;* )  
Defendants. )

## **ORDER**

Plaintiff's action for fraud, negligence, and breach of contract against defendants was removed to this Court on December 21, 2010. (Doc. 1.) The case was well under way and was not removed until the Federal Deposit Insurance Corporation stepped in as receiver for Darby Bank and Trust. (*Id.* at 1-2.) Hence, there were several unresolved motions pending in state court at the time of removal, including two motions to dismiss. (Doc. 6.) Those motions must be formally refiled should the parties wish them to be addressed. They are reminded,

however, that federal procedure now applies. *See* 32A Am. Jur. 2d *Federal Courts* § 1457 (2010) (“Essentially, a removed action proceeds as if it had originally been brought in the federal court. However, federal rather than state law governs the future course of the proceedings regardless of state court orders issued prior to removal.” (footnotes omitted)). Hence, the motions may require substantial revision prior to refiling.

As an additional matter, the parties are **DIRECTED** to confer and present a proposed scheduling order within 14 days of the date of this Order.

**SO ORDERED** this 18th day of January, 2011.



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UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT of GEORGIA